

## Problem-Solving Courts: Evidence Based Best Practices

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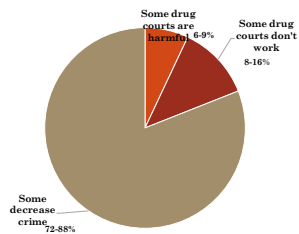
*Education Conference 2016*

## Problem Solving Courts

Evidence-Based Practices

## Why are Evidence-Based Practices Important?

Summary of Findings from Drug Court Research



(Carey et al., 2012; Downey & Roman, 2010; GAO, 2011; Mitchell et al., 2012; Shaffer, 2010)

### What Do We Know About Drug Courts?

- More research has been published on adult drug courts than virtually all other correctional programs combined.
- Much of what we know about adult drug courts comes from research that has been released in the last five years.
- NADCP's National Drug Court Standards Volume 1 (2013) and Volume 2 (2015) summarizes most of the current research about adult drug courts.

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### What Do We Know About Drug Courts?

- **IMPORTANT:** We know less about Mental Health Courts, Veterans Treatment Courts and Family Drug Courts. These are newer models so the same body of research has not accumulated. The research on Juvenile Drug Courts is mixed.
- Some adult drug court research is transferrable (e.g. Teams/Communication) - other areas are research need further examination before we can assume all of the principles apply to the model (e.g. Sanctions and Incentives)

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### Key Principles From the Drug Court Research

- Who the program serves matters!
  - ✓ Targeting: High Risk/High Need
  - ✓ Appropriate screening and assessment prior to entry is key.
  - ✓ Individualized case planning improves outcomes.

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### Key Principles From the Drug Court Research

- Coordination matters!
  - ✓ DCs with treatment representatives who attend staffing have twice the reduction in recidivism
  - ✓ DCs that require all team members (including prosecution and defense) to attend staffing have twice the cost savings.
  - ✓ Drug courts that use one or two primary treatment agencies have greater reductions in recidivism.

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### Key Principles From the Drug Court Research

- Structure and consistency matters
  - ✓ DCs that perform drug testing two or more times per week have greater cost savings.
  - ✓ DCs that have judges who preside for longer than two years have three times greater cost savings.
  - ✓ DCs that hold status hearings every two weeks during Phase 1 have more than two times greater cost savings.
  - ✓ DCs that provide training for all for all team members have five times greater savings.

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### Challenges for PSC Judges Seeking to Implement Evidence-Based Practices

- *Challenges for new PSC judges*
  - ✓ Program implementation is challenging.
  - ✓ Partner agencies can be resistant to new ideas.
- *Challenges for existing PSC judges*
  - ✓ Team members can be resistant to change.
- *Challenges for all PSC judges*
  - ✓ Competing priorities.
  - ✓ Tendency to embrace research one philosophically agrees with and ignore the research that does not align with personal beliefs.
  - ✓ Quality assurance is time consuming and challenging.

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## Resources

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## Resources

- Volume 1 and Volume 2 of NADCP's standards  
<http://www.nadcp.org/Standards>
- The Drug Court Judicial Benchbook  
[http://www.ndci.org/sites/default/files/nadcp/14146\\_NDCI\\_Benchbook\\_v6pdf](http://www.ndci.org/sites/default/files/nadcp/14146_NDCI_Benchbook_v6pdf)
- Developing a Mental Health Court: An Interdisciplinary Curriculum  
<https://learning.esjusticecenter.org/>
- Administrative Office of the Illinois Courts \_\_\_\_\_

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## Questions

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## Scenarios

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Thank you, please  
remember to fill out your  
session evaluation.

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## Target Population/Screening/Assessment

### ***Evidence-Based Best Practice Checklist:***

Based upon the Adult Drug Court Best Practice Standards Volume I and II (NADCP, 2013; NADCP, 2015)

- \_\_\_\_ Eligibility and exclusion criteria are defined objectively.
- \_\_\_\_ Eligibility and exclusion criteria are specified in writing.
- \_\_\_\_ Eligibility and exclusion criteria are communicated to potential referral sources.
- \_\_\_\_ The team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.
- \_\_\_\_ Candidates for the program are assessed for legal eligibility using a validated risk assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.
- \_\_\_\_ The program targets individuals for admission who are addicted to illicit drugs or alcohol and are at substantial risk for reoffending or failing to complete a less intensive program, such as standard probation or pretrial supervision. These individuals are commonly referred to as high-risk and high-need individuals. \*\*\* This criteria is not applicable to mental health courts.
- \_\_\_\_ Participants are assessed using a validated instrument for mental health disorders.
- \_\_\_\_ Potential program candidates are assessed for clinical eligibility using validated clinical assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.
- \_\_\_\_ If adequate treatment is available, defendants with co-occurring mental health or medical conditions are not disqualified from participation.
- \_\_\_\_ Staff are trained and proficient in the administration of the assessment tools and interpretation of the results.

### **Resources:**

**Resource 1:** "Targeting the Right Participants for Adult Drug Courts" (Marlowe, February 2012).

To access this resource, please go to:

[http://www.ndci.org/sites/default/files/nadcp/Targeting\\_Part\\_I.pdf](http://www.ndci.org/sites/default/files/nadcp/Targeting_Part_I.pdf)

**Resource 2:** “Alternative Tracks for Adult Drug Courts: Matching Your Program to the Needs of Your Clients” (Marlowe, March 2012).

To access this resource, please go to:

<http://www.ndci.org/sites/default/files/nadcp/AlternativeTracksInAdultDrugCourts.pdf>

**Resource 3:** “Using Offender Risk and Needs Assessment Information at Sentencing: Guidance for Courts from a National Workgroup” (Casey, Warren & Elek, 2011)

To access this resource, please go to:

<http://www.ncsc.org/~media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx>

**Mental Health Court Specific Materials:**

**Resource 4:** *Developing a Mental Health Court: An Interdisciplinary Curriculum* is a comprehensive, online resource for individuals or interdisciplinary groups interested in starting, improving, or simply learning about mental health courts. See Module 4 on Targeting.

To access this resource, go to: <https://learning.csjusticecenter.org/>

**Resource 5:** Webinar: Know Who They Are and What They Need: Screening and Assessment for Co-Occurring Disorders (NDCI, 2013)

At the end of this webinar, participants will be able to:

- Describe several challenges in conducting screening and assessment of co-occurring disorders in drug courts.
- Identify several instruments to screen and assess for co-occurring disorders, including instruments examining major mental disorders, substance dependence, PTSD/trauma, and criminal risk.
- Understand basic strategies to screen and assess for drug court eligibility.
- Make adaptations to drug court assessment procedures to address co-occurring disorders.

To access this resource, go to:

<http://www.ndcrc.org/content/know-who-they-are-and-what-they-need-screening-and-assessment-co-occurring-disorders>

## Drug and Alcohol Testing

Based upon the Adult Drug Court Best Practice Standards Volume I and II (NADCP, 2013; NADCP, 2015)

### ***Evidence-Based Best Practice Checklist:***

The following best practices apply to all models of problem solving courts. In a mental health court, the following would be applicable to participants with co-occurring disorders only.

- \_\_\_\_ Drug testing at conducted least twice per week.
- \_\_\_\_ Drug testing is random, and is available on weekends and holidays. Random means the chances of being tested should be equal that a person could be tested on any given day and that testing does not always coincide with a predictable event such as when court is held.
- \_\_\_\_ Drug test results are routinely available within 48 hours except in extreme circumstances where more specialized lab testing is needed.
- \_\_\_\_ Participants are required to provide a specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.
- \_\_\_\_ Collection of specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.
- \_\_\_\_ Scientifically valid and reliable testing procedures are used and the chain of custody is maintained for each specimen.
- \_\_\_\_ If a participant denies use in response to a positive test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).

**Resource 1:** “The Drug Court Judicial Benchbook” (Marlowe & Meyer, February 2011).

See Chapter 6: The Fundamentals of Drug Testing

To access this resource, please go to:

[http://www.ndci.org/sites/default/files/nadcp/14146\\_NDCI\\_Benchbook\\_v6.pdf](http://www.ndci.org/sites/default/files/nadcp/14146_NDCI_Benchbook_v6.pdf)



**Resource 2:** Webinar: SAMHSA Guidelines on EtG/EtS – What This Means for Drug Courts (NDCI, 2012)

This webinar is designed to review the recently revised Advisory from SAMHSA entitled: "The Role of Biomarkers in the Treatment of Alcohol Disorders, 2012 Revision. Ethyl glucuronide (EtG) and ethyl sulfate (EtS) have become critical tests in the abstinence monitoring of alcohol in drug court settings. The original SAMHSA Advisory (September, 2006) caused a significant chilling effect on the utility of EtG/EtS testing and raised questions regarding the appropriate use of this valuable monitoring tool in a forensic context. Drug Courts have been anxiously awaiting these revisions. The following issues related to the revised advisory will be discussed during this webinar:

- Review of both indirect and direct alcohol biomarkers and their use
- Discussion of what alcohol biomarkers are most appropriate for use in therapeutic/treatment courts settings
- Evaluation of EtG/EtS cutoff concentrations appropriate for therapeutic/ treatment courts case adjudication
- Review of the importance of a client contract when utilizing EtG/EtS testing for alcohol abstinence monitoring
- Comparison of EtG/EtS testing methods
- Best practices for therapeutic/treatment courts using or planning to use EtG/EtS testing

To access this resource, please go to:

<http://ndci.org/training/online-trainings-webinars/webinars/webinar-archives>

## Roles and Responsibilities of the Judge

### ***Evidence-Based Best Practice Checklist:***

Based upon the Adult Drug Court Best Practice Standards Volume I and II (NADCP, 2013; NADCP, 2015)

- \_\_\_\_ The judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.
- \_\_\_\_ The judge presides over the court for no less than two consecutive years.
- \_\_\_\_ Participants ordinarily appear before the same judge throughout their enrollment in the program.
- \_\_\_\_ The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the team.
- \_\_\_\_ Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program.
- \_\_\_\_ Status hearings are scheduled no less frequently than every four weeks until participants graduate.
- \_\_\_\_ The judge offers supportive comments to participants, stresses the importance of commitment to treatment and other program requirements, and expresses optimism about the participant's ability to improve their health and behavior.
- \_\_\_\_ The Judge spends an average of at least three minutes with each participant.
- \_\_\_\_ The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.
- \_\_\_\_ The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.
- \_\_\_\_ The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.

**Resource 1:** “The Drug Court Judicial Benchbook” (Marlowe & Meyer, February 2011).

See Chapter 3: The Roles of the Drug Court Judge

To access this resource, please go to:

[http://www.ndci.org/sites/default/files/nadcp/14146\\_NDCI\\_Benchbook\\_v6.pdf](http://www.ndci.org/sites/default/files/nadcp/14146_NDCI_Benchbook_v6.pdf)

## Multi-Disciplinary Team

### ***Evidence-Based Best Practice Checklist:***

Based upon the Adult Drug Court Best Practice Standards Volume I and II (NADCP, 2013; NADCP, 2015)

- \_\_\_\_ Team members consistently attend pre-court staffing and provide relevant information or recommendations. At a minimum, this includes the prosecutor, defense counsel, treatment representative, law enforcement and the judge attending staffing. Additional staff would be required depending on the model.
- \_\_\_\_ Team members consistently attend problem solving court sessions. At a minimum, this includes the prosecutor, defense counsel, treatment representative, law enforcement and the judge attending staffing. Additional staff would be required depending on the model.
- \_\_\_\_ Team members are assigned to the program for no less than two years.
- \_\_\_\_ Team members share information to appraise participants' progress in treatment and compliance with the conditions of the program. Participants provide voluntary and informed consent permitting team members to share specific information in this regard.
- \_\_\_\_ All team members use electronic communication to contemporaneously communicate about Drug Court issues.
- \_\_\_\_ Team members attend a formal pre-implementation training prior to joining the team and participate in a formal orientation that addresses the model and best practices as soon as practical after assuming their position.

### ***Mental Health Court Specific Materials:***

**Resource 1:** *Developing a Mental Health Court: An Interdisciplinary Curriculum* is a comprehensive, online resource for individuals or interdisciplinary groups interested in starting, improving, or simply learning about mental health courts.

See Module 3: Mental Health Court Team.

To access this resource, go to: <https://learning.csjusticecenter.org/>

## Incentives and Sanctions

### ***Evidence-Based Best Practice Checklist:***

Based upon the Adult Drug Court Best Practice Standards Volume I and II (NADCP, 2013; NADCP, 2015)

- \_\_\_\_\_ Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.
- \_\_\_\_\_ The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.
- \_\_\_\_\_ The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.
- \_\_\_\_\_ Participants are given an opportunity to explain their perspective concerning factual controversies and the imposition of incentives, sanctions, and therapeutic adjustments.
- \_\_\_\_\_ For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.
- \_\_\_\_\_ The Drug Court places as much emphasis on incentivizing productive behaviors as it does on reducing crime, substance abuse, and other infractions.
- \_\_\_\_\_ Criteria for phase advancement and graduation include objective evidence that participants are engaged in productive activities such as employment, education, or attendance in peer support groups.
- \_\_\_\_\_ Jail sanctions are used judiciously and sparingly. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.
- \_\_\_\_\_ Sanctions are delivered without expressing anger or ridicule.

**Resource 1:** “Behavior Modification 101 for Drug Courts: Making the Most of Incentives and Sanctions” (Marlowe, September 2012).

To access this resource, please go to:

<http://www.ndci.org/sites/default/files/BehaviorModification101forDrugCourts.pdf>

**Resource 2:** “The Drug Court Judicial Benchbook” (Marlowe & Meyer, February 2011).

See Chapter 7: Applying Incentives and Sanctions

To access this resource, please go to:

[http://www.ndci.org/sites/default/files/nadcp/14146\\_NDCI\\_Benchbook\\_v6.pdf](http://www.ndci.org/sites/default/files/nadcp/14146_NDCI_Benchbook_v6.pdf)

## Treatment and Ancillary Services

Based upon the Adult Drug Court Best Practice Standards Volume I and II (NADCP, 2013; NADCP, 2015)

### ***Evidence-Based Best Practice Checklist:***

- \_\_\_\_\_ The program offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.
- \_\_\_\_\_ The program offers a continuum of complementary services that may include housing, mental health treatment, trauma-informed services, criminal-thinking interventions, family or interpersonal counseling, vocational or education services, and medical or dental treatment.
- \_\_\_\_\_ Participants suffering from mental illness receive mental health services beginning in the first phase of the program and continuing, as needed, throughout their enrollment in the program.
- \_\_\_\_\_ Standardized patient placement criteria govern the level of care that is provided. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.
- \_\_\_\_\_ Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.
- \_\_\_\_\_ Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.
- \_\_\_\_\_ Participants receive an evidence-based criminal-thinking intervention after they are stable clinically such as Moral Reconation Therapy, the Thinking for a Change program, or the Reasoning & Rehabilitation program.
- \_\_\_\_\_ Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug abstinent for a specified period of time.
- \_\_\_\_\_ Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.
- \_\_\_\_\_ Participants meet individually with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.

- \_\_\_\_ Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.
- \_\_\_\_ Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.
- \_\_\_\_ Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.
- \_\_\_\_ Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.
- \_\_\_\_ Treatment providers are licensed or certified to deliver substance abuse treatment.
- \_\_\_\_ Treatment providers have substantial experience working with criminal justice populations.
- \_\_\_\_ Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.
- \_\_\_\_ Participants regularly attend self-help or peer support groups in addition to professional counseling. The peer support groups follow a structured model or curriculum such as the 12- step or Smart Recovery models. There is a secular alternative to 12-step peer support groups. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.

### **Resources Related to Substance Abuse Treatment**

**Resource 1:** Webinar: Promoting Recovery and Reducing Recidivism: Implementing Effective Programming for Individuals with Substance Use Disorders

This webinar will highlight the research and best practices about effective treatment for justice-involved individuals with substance use disorders and highlight several state and local approaches to program implementation.

To download the presentation, click the link below:

<https://csgjusticecenter.org/wp-content/uploads/2013/04/Substance-Abuse-EBPs.pdf>

### **Resources Related to Trauma and Trauma-Informed Treatment**



**Resource 2:** The GAINS Center has developed training for criminal justice professionals to raise awareness about trauma and its effects. “How Being Trauma-Informed Improves Criminal Justice System Responses” is a one-day training for criminal justice professionals to:

- Increase understanding and awareness of the impact of trauma
- Develop trauma-informed responses
- Provide strategies for developing and implementing trauma-informed policies

This highly interactive training is specifically tailored to community-based criminal justice professionals, including police officers, community corrections personnel, and court personnel. To access more information about this resource, link here to contain the GAINS Center about holding a training: <http://www.samhsa.gov/nctic/trauma-interventions>

**Resource 3:** Webinar: Traumatic Stress Disorder and What it Means for Our Participants

This webinar will provide an overview of the nature of PTSD including its symptoms, characteristic behaviors, and outcomes. Topics include:

- How it feels to have PTSD
- Impact of PTSD on the nervous system
- How PTSD changes the way a person experiences emotions
- Impact of PTSD on a person’s functioning in work and relationships.
- Overview of the range of post-traumatic possibilities: from non-traumatic outcomes to other mental health problems to sub-clinical PTSD through the potential consequences of complex traumatic stress.

To download the presentation, click the link below:

<https://csgjusticecenter.org/wp-content/uploads/2013/04/Substance-Abuse-EBPs.pdf>

**Resource 4:** Webinar: Veterans Treatment Courts and Domestic Violence

As Veterans Treatment Courts (VTCs) continue to increase in number throughout the country, many have shown themselves more willing than other types of treatment courts to accept veterans with domestic violence charges. This webinar will define and distinguish domestic violence and intimate partner violence (IPV); examine the magnitude of IPV, the significance of context, and IPV’s intersection with combat-related conditions; explain what VTCs are and how they operate; present considerations VTCs must make if accepting veterans charged with domestic violence offenses, and discuss whether domestic violence courts are a better option for justice-involved veteran accountability and victim safety.

To download the presentation, click the link below:

[http://www.bwjp.org/our-training-and-services/Veterans Treatment Courts and Domestic Violence.html](http://www.bwjp.org/our-training-and-services/Veterans_Treatment_Courts_and_Domestic_Violence.html)

## **ED CON 2016**

**Scene 1 (Substance Abuse Treatment (V)-efficacy of medicated assisted treatment, Roles and Responsibilities of Judge (III)-professional training, responsibility to be informed of evidence-based substance abuse treatment)**

Judge: Who do we have first Ms/Mr Public Defender

APD: We have new guy, Pete Postal. He's a long term heroin addict. He says he wants medicated assisted treatment. He's been on methadone in the past but he thinks he might do better on suboxone. I'm not sure what our Probation Officer thinks.

PO: I don't know if I can find a program that will take someone on those medications. Most of our drug free programs won't accept people on those medications. I also know that in medicated assisted programs, what they call treatment is just a perfunctory group or two a week and not the intensive group and individual therapy that our people get in standard iop.

Judge: What is the State's position?

ASA: Judge, if he's not already on medication, I don't know why we'd want to put him on it and substitute one addiction for another. They say methadone is more addictive than heroin. Maybe if he's not willing to do non-medicated assisted treatment he should just go to IDOC.

APD: Judge, I'm sure he'd rather do whatever type of treatment he has to rather than go to prison. Do you want me to just tell him we don't have an acceptable medication-assisted program to send him to unless he can find one and has the resources to pay for it himself.

Judge: That's fine.

APD: If he is able to find a program that will take him, can we have probation confirm the components of the program and re-assess this situation when he comes back.

Judge: I'll be honest with you counsel, I'm not a fan of methadone and I don't have any reason to believe suboxone is any different. It's my belief that abstinence from all drugs is the only thing that works in the long run. So I'm not inclined to go along with what you are proposing.

APD: Judge I don't meant to be disrespectful at all but have you ever attended either the national NADCP Conference or our own Illinois Association of Problem Solving Courts Conference. I think you'd find them both very informative. There is a lot of material available and discussion around the issue of medicated assisted treatment. Just so you know.

Judge: Thank you counsel, but it's hard for me to get away, especially when it's out of state.

**Scene 2 (Drug and Alcohol Testing (VII)-frequent/random, Multidisciplinary Team (VIII)-status hearings, Case Management and Supervision- drug testing/reporting/court appearances (Idaho Adult Drug Court Guidelines and Standards)**

Judge: Susie Slider. Probation how's she doing?

PO: Judge. She's reports as scheduled and she's finishing aftercare. She goes to meetings but always forgets to bring a tracking sheet to verify them. Her drops are negative but she seems disengaged and unmotivated. I think she's using and we just haven't been able to catch her yet.

Judge: What phase is she in ?

PO: She's still in Phase I.

Judge: How often is she being dropped?

PO: She's dropped every time she reports to probation and every time she comes to court so I would say at least every 2 weeks.

Judge: How often is she reporting?

PO: Every other week?

Judge: How often does she come to court?

PO: At least once a month.

Judge: Well they say in Phase I a person should be reporting every week and coming to court every two weeks, being dropped at least once if not twice a week or more so it looks like we're missing the mark on all of those standards.

PO: Sorry judge, I'll have her come in more often.

Judge: Can you do an instant drop today?

PO: Sorry again judge I don't have one. You have to make a special request from a supervisor for those and I couldn't find one.

Judge: Really, well when you do find one please tell them I would like to speak to them. Is your office familiar with the color coded random urinalysis system?

PO: Yes, but they say we don't have the personnel available to do the drops that way.

Judge: Then I guess I need to add that to the list of things to talk to your supervisor about.

**Scene 3 (Roles and Responsibility of Judge (III))-participation in staffing, Target Population(I)-high-risk/high-need, mixing participants w/different risk/need, choosing the right target population)**

Judge: OK Just so you know I have to cover bond court so I might have to leave. You might have to finish the staffing without me.

ASA: No problem we've done that before and it's worked out ok.

Judge: State, who's next?

ASA: We have an eligibility judge Harry Hopeful. He's 23 yo, and has no prior felony arrests. He's charged with PCS but it looks like it could have been charged as PCS/I. He has misdemeanor convictions for battery and possession of marijuana.

Judge: Has he been assessed?

ASA: Yes judge they've got him as low risk low needs.

APD: Judge, as his lawyer I have concerns whether he fits in with our population and whether there might be a danger of over-treating him. Our people are high-risk, high-needs. He's low risk, low needs. His drug of choice is marijuana. He goes to school and works part-time. We don't have a separate track to put him in and I don't think he needs intensive outpatient treatment 4 or 5 days a week.

Judge: Maybe we can see if he can just do iop once or twice a week. A little iop won't hurt him.

APD: He'd still be mixed in with the serious users which they say can do more harm than good. Why not just regular 410 First Offender Probation with drug education and random drops.

Judge: We can take him in drug court and still give him 410 with drug court conditions.

APD: So Judge are you saying he has to go to iop?

Judge: Yes

APD: OK I'll talk to him.

Judge: OK I have to leave now so go ahead and finish the people we have left and you can fill me in before we start the call.

**Scene 4 (Incentives, Sanctions and Therapeutic Adjustments (IV)-opportunity to be heard, fair, consistent w/evidence-based principles of behavior modification, proximal vs distal conduct, Roles and Responsibilities of Judge (III)-judicial decision making, Multidisciplinary Team (VIII)-decision making/collaboration, procedural justice/fairness (American Judges Association-Burke/Leven 2007, Center for Court Innovation(CCI)-Rempel 2014)**

Judge: Johnny Justice. Probation can I have an update on Mr. Justice?

PO: He was admitted a couple of months ago and is doing iop 3 days a week at Haymarket. He shows up for treatment and participates. He also reports to probation as scheduled but he just can't seem to stop using. He's been positive for heroin every time he drops. I don't know what to do with him.

Judge: let me hear from the State and the public defender. State?

ASA: Judge we're going to prepare a Petition to Revoke (PTR) and ask that he be remanded into custody for at least a week so he can detox and then maybe go back to treatment.

APD: Judge he's willing to go to detox and do inpatient treatment. Can't we send him somewhere in the community to do that instead of locking him up.

Judge: Probation. How many positive drops does he have?

PO: By my count at least 6.

Judge: That's too many. He could have gone to detox and addressed this before now. It's too late for that now. He needs a sanction. Let's take him into custody and bring him back in a week.

APD: Can you explain to him what's going on and why it's necessary to remand him when the case is called.

Judge: Ok let's go out now and we'll call him first.

### ***(Court convenes)***

Judge: Court is now in session and we are on the record. Mr. Justice step up to the bench.

APD: Judge Mr. Justice is before you.

Judge: State?

ASA: We'd ask leave to file a petition to revoke.

Judge: Leave is granted.

APD: We acknowledge receipt.

Judge: Okay, Mr. Justice, this petition alleges that you've been positive for heroin at least 6 times in the past month so I really don't think I have any choice but to take you in for a week and then reassess the situation.

APD: Judge as I told you in staffing, he's willing to go to detox and then residential on the outside if you'll let him.

Judge: At this point I believe a jail sanction would be more appropriate.

Defendant: Judge can I speak?

Judge: I wouldn't advise it.

Defendant: I know I messed up but I think if I can go somewhere and stay clean for a month or so, I might be able to get back on track.

Judge: To be honest with you Mr. Justice I'm not sure we should even be having this conversation, because if what they're telling me is true, you may be high right now .

Defendant: I'm not high. Can I have a hearing or something before you lock me up.

Judge: Is this a violation of probation or a pre-adjudicatory case where he's still on bond?

ASA: It's a deferred prosecution. He's on bond. So it's a petition to violate his bond.

Judge: Ok Defendant will be remanded into custody without bail and we'll see you back here 1 week from today. If you are requesting a hearing on this petition, the State will be prepared to proceed.

ASA: Yes sir.

**Scene 5 (Complimentary Treatment and Social Services (VI)-trauma-informed services (Seeking Safety), HIV counseling and medical treatment, Historically Disadvantaged Groups (II)-HIV-equivalent access to treatment)**

Judge: Counsel who do wish to discuss next?

APD: Teresa Thompson. This is a tough one, judge. The assessment says she is High Risk-High Needs with heroin dependence and co-occurring trauma related PTSD. She has a history of prostitution arrests and drug related felony convictions. She's also HIV positive.

Judge: What's the recommended treatment plan?

APD: Judge they recommend a treatment called Seeking Safety. It's mostly for women who have suffered some kind of trauma. They try to avoid making them re-live the trauma and focus on the present. They teach using practical solutions to stay safe in situations they find themselves in. It also includes substance abuse treatment.

Judge: Probation. Do we have a treatment provider who offers that?

PO: Yes judge, they have it at Women's Treatment Center. She can do the 28 day inpatient program there and then transition to a recovery home. But I'm not sure whether they can give her the services she needs for the HIV. She might have to go somewhere else for that

Judge: Where can she go?

PO: County Hospital has a program where they offer everything for infectious diseases from testing and screening to prevention and education to medical and dental care, plus other support services. You can even be part of the research they do..

ASA: As the prosecutor, I don't mean to sound unsympathetic, but this case would be her 6th Retail Theft conviction. I think she belongs in IDOC. It's their responsibility to provide her with medical care and whatever else she needs. Plus if she's out there in the community she might be prostituting herself and infecting other people.

APD: Judge, she shouldn't be denied the opportunity to participate in drug court just because she's HIV positive. She'll be in a residential program for 28 days and then on restriction for the first 30 days at the recovery home. They only allow her movement for medical appointments and she'll be dropped when she returns. They will notify us immediately if she drops positive or absconds.

Judge: I think we should try to help this person. Obviously she needs all the help she can get. State you can make your record, but I'm inclined to give her probation over your objection.



**Scene 6 ( Substance Abuse Treatment (V)-continuum of care-adaptive case management, Complimentary Treatment and Social Services (VI)-co-occurring substance abuse treatment, ACT, medical and psychiatric treatment, medication management, Incentives, Sanctions and Therapeutic Adjustments (IV)-jail as sanction in mental health court**

Judge: Okay we have Maggie Miller she's a mental health court case that's been added to the call. Is she here State?

ASA: Yes judge she's here with her case manager from Thresholds, Ms. Munoz. We're asking to file a petition to violate and remand her into custody.

Judge: Ms. Munoz can you give us an update on her.

Ms. Munoz: (Kelly) Yes judge. She's been in our Assertive Community Treatment (ACT) program which provides her with around the clock access to a multi-disciplinary team including a psychiatrist. We've had a lot of trouble getting her to do much of anything. She's bipolar and always has an excuse for everything whether it's a medical problem or having to take care of her mother. She doesn't show up consistently for treatment or her other appointments.

Judge: Tell me what's happened since her last court date.

Ms. Munoz: She wasn't here last time because she checked herself into the hospital that morning for stomach pain. She was released that day and came to see me the next day. I got her back into iop and she went for a few days but they dropped her and she was positive so they kicked her out. Probation says she failed to report so they did an instant drop today and it was positive for opiates but they won't know if it's from heroin or from the hydrocodone she's on until they send it to the lab for confirmation.

Judge: What's the plan now?

Ms. Munoz: I was able to get a bed for her for tomorrow at Southwood Intervention. It's a 28 day dual diagnosis program and she can go back to iop afterwards. In the meantime they will make sure she gets to her doctor's appointments. She should also be told it is her responsibility to request that her doctor take her off the hydrocodone and give her a prescription for non-narcotic pain medication.

ASA: Again judge, we'd be asking that you remand her at least until we get confirmation on whether she's positive for heroin or not.

Judge: I don't feel real comfortable not knowing whether she's using heroin or not and I'm not certain she'll last the 28 days but I don't think jail is the answer at this point and we need to be even more aware of sending our mental health court people to jail since it doesn't seem to have the same effect on them and may do more harm than good.

**Scene 7 (Target Population (I))-high risk/high need, validated risk-assessment and clinical-assessment tools, Complimentary Treatment and Social Services (VI)-evidence-based cognitive-behavioral (CBT, MRT) treatments, Incentives, Sanctions Therapeutic Adjustments (IV)-jail sanction-consistent with evidence based principles)**

Judge: OK State who do you want to talk about next?

ASA : Judge we have a new guy Rick Repetto. He's 30 yrs old with 5 felony convictions including a 2003 Robbery. He's been to IDOC 3 times. He also has a misdemeanor Domestic Battery and a DUI. His drugs of choice are heroin and alcohol. He works construction and lives with his girlfriend. She's a nurse. We object to taking him based on the prior Robbery.

Judge: Do we have a risk-needs assessment Ms/Mr. Public Defender?

APD: Yes the TCU II screen indicates High Risk–High Needs. He says he's motivated judge. He seems like a good candidate to me. He might do well in Cognitive Behavioral Therapy (CBT) or Moral Reconation Therapy (MRT).

Judge: What's are those?

APD: I think they're similar. They focus on changing thinking and behavior by better moral reasoning. They try to get you to understand the symptoms of your thinking and behavior and learn to make different choices. They cover relationships, attitudes and frustration tolerance. The ultimate goal is positive identity formation.

Judge: Probation. Where could he go?

PO: I'm pretty sure Haymarket has an outpatient program I can get him into.

ASA: Judge, if we take this guy, he should do jail-based or some other inpatient treatment program and 240 hours of community service, with the understanding if he commits any violation whatsoever, he'll be terminated and we will ask for extended term IDOC time.

APD: That sounds a little extreme judge. We all know that if we accept someone, we should focus on treatment not punishment. And community service should be used as a sanction. Also, as far as zero tolerance goes, just because he's high risk high needs doesn't mean we throw graduated sanctions out the window. He's the kind of guy we should be targeting.

Judge: I agree he's a good candidate and we should approach this from a therapeutic standpoint. We need to find treatment that seems to be best for his needs and we should apply the other principles of drug court like we do in all of our cases.

**Scene 8 (Roles and Responsibilities of Judge (III))-judicial demeanor, Incentives Sanctions and Therapeutic Adjustments (IV)-incentivizing productivity, Multidisciplinary Team (VIII) communication and decision making, positive reinforcement, motivational interviewing.**

Judge: Do we have anyone else.

APD: Yes judge. Frank Forlorn.

ASA: We will be asking to file a VOP based on a positive drop and his self-admission to using on 2 different dates.

APD: He's not doing very well judge. He admits to using and missing meetings. He feels like he disappointed you and the team. He's been trying to get a job for months and when they find out about his record they won't hire him. He doesn't know what to do with himself. He's really frustrated and almost despondent. I wish we could do something to help him.

Judge: (to ASA) What do you suggest we do about this situation?

ASA: We'd suggest at least a weekend in custody.

Judge: probation what do you think?

APO: I can have him come in weekly for a while and maybe he should write an essay.

Judge: Ok. We have to remember that honesty is a proximal goal and staying clean is a distal goal. We sanction higher for dishonesty and lower for honesty, even if it is related to a relapse. We expect there to be relapses. It's what happens after a relapse that is the most important. And we must recognize that. Of course, there should be a sanction, but I think we need to take into consideration the fact that Mr. Forlorn apparently got back on track on his own by calling his sponsor and getting back to meetings, and being honest with Probation about what happened. And the clean tests since are consistent with what he told Probation. He was clean for 6 months. We know that participants are more likely to lie about use the longer they are in drug court...for the very reason the APD said...disappointing us. The fact that he is being honest here is huge, and that he made the right decisions post relapse. However, he still made a lot of wrong decisions that led to the relapse. We have a multitude of Thinking Errors going on here. So we need to come up with a therapeutic intervention that supports his recently sustained sobriety. Jail isn't appropriate in this instance. If he had been dishonest about the use, yes, but with the way he handled the situation, a therapeutic response and sanction is what fits. Probably with some increased Community Supervision the next couple of weeks. You think we can do that (looking at Probation).

APO: Certainly. Also he never completed our Thinking for a Change cog group, so he needs to be ordered to do that as well ASAP.

Judge: Ok. Let's see what he has to say for himself in Court.

***(Court convenes)***

Judge: Next case. Frank Forlorn. Probation. An update on Mr. Forlorn.

APO: Mr. Forlorn was clean for 6 months and doing well. Although he has been continuing to struggle to get employed. He came in for a visit last week and admitted use on two occasions, and said he would test positive that day. He also admitted to stopped going to meetings for a week. He further stated that after he used twice, he called his sponsor and started to attend meetings again. He has been tested twice since then and both results were negative.

Judge: Good morning, Mr. Furlorn.

Furlorn: Good morning, Judge (head down)

Judge: Mr. Furlorn. As we always say here in drug court, honesty the most important thing in this Court...and will ultimately decide whether you are going to be successful here and beyond this courtroom. And certainly is critical to you maintaining your sobriety. It is my understanding that you have had a very difficult couple of weeks. I want to give you an opportunity to explain what happened here in court if you wish to do so.

Furlorn: Yes, Judge I would like to explain. I am so ashamed of myself.

Judge: Well, it is my understanding that you have been honest...so at this point, there is no reason to be ashamed.

Furlorn: Well, the bottom line is I got in a real bad place real quick. Now that I think back it really was something brewing for months, though. I wasn't using, but I wasn't thinking the right way either.

Judge: What do you mean by that?

Furlorn: I was clean, but not really...up here (pointing at top of his head). I have been trying to get a job forever it seems and my record keeps tripping me up.

Judge: So not getting a job was affecting your mindset?

Furlorn: Definitely. Heck, I should have been feeling great. I was clean for 6 months! That's the longest I have been clean for years. And I did feel great initially for the first few months. I was going to meetings, changed my friends, where I was hanging. I came out of inpatient feeling so good.

Judge: Then what happened?

Furlorn: The job thing was just eating at me. How am I going to get through drug court without a job...yet every way I turn my past was standing in my way. No one want to hire someone with Burglaries and Thefts on their record. I know I will prove myself, but no one is giving me a chance to do so. So this has been bothering me for a long time. And then a couple of weeks ago...some family stuff blew up too. I was depressed and alone. And I did what the old Frank would do. I stopped going to meetings. Thought I don't need meetings to stay clean. I have been clean for 6 months. Then next

thing you know I am driving back from another failed job interview and I am driving through my old neighborhood.

Judge: So you were out looking for a job and you ended up in your old neighborhood. Was the job interview over there?

Furlorn: Well...no. But, I thought why I don't I look up one of my old buddies (guy I used with before but I heard he was clean now). Just to talk to someone that understood me. Well. Go figure. He was going through similar stuff. And he had some coke on him. And bam. I was using. Then next day same thing. Basically because I was mad about using the day before.

Judge: So this old neighborhood and friend led to the use?

Furlorn: No. Judge it was me. I made the choices. But, on the third day. He called and I hung up and immediately called my sponsor and got back to meeting and have been clean ever since. Like my PO said, I have tested clean since. And I told him everything. Even though I knew I was probably going to jail.

Judge: So in the past, Mr. Furlorn, I know you probably would have just kept using without telling anyone. What was different this time?

Furlorn: I am done with that life, Judge. Just going back briefly proved that to myself. I don't want to be that person anymore. For the first time in my life, I have completed treatment. I just needed to call my sponsor and get back on the right track. Done with that old stuff. But, Judge, I understand I really messed up. I am sorry.

Judge: Mr. Furlorn. I appreciate your honesty. You did relapse so there must be a sanction. But, due to your honesty. Both with your PO and here in court, the sanction won't be jail. First, you never completed the Thinking for a Change Cog Group. That is now an order of the Court to complete that in the next 8 weeks. Further, you are ordered to complete a written relapse prevention plan. You will work with Probation and treatment to get that done and report back to the Court that is completed in 2 weeks. You are ordered to meet with your PO tomorrow to understand your expectations with Thinking for a Change and the relapse prevention plan. I want to ensure that the thinking errors you made prior to use don't happen again. Fact is, you weren't using for months, meaning you weren't in active use. However, you weren't in the right mindset to stay clean. And you haven't developed appropriate ways to deal with the stresses of life. Finally, you have shown a lot to me in how you handled everything after your relapse. Again, your honesty is the reason you aren't going to jail today...honesty to your PO and honesty today here in Court. Now, it is time for you to do the work I have ordered you to do...get in the right mindset to remain clean and stay on the right track. I will see you in two weeks.